



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000

April 3, 1996

Ms. Diane Richardson
U.S. Environmental Protection Agency Region 10
1200 Sixth Avenue
MS HW-106
Seattle, WA 98101

Dear Ms. Richardson:

Re: Transfer of Burlington Environmental (dba Philip Environmental, Inc.) Terminal
91 Facility Corrective Action to Washington State Department of Ecology

Now that the U.S. Environmental Protection Agency Region 10 (EPA) has transferred the Philip Terminal 91 Facility corrective action lead to the Washington State Department of Ecology (Ecology), we would like to clarify a few issues. Presently EPA has a 3008(h) Order directed at the Philip Facility to conduct both a RCRA Facility Investigation (RFI) and a Corrective Measures Study (CMS). Although this order has not been fully satisfied, it was anticipated that outstanding tasks outlined in the 3008(h) Order and the continuation of corrective action would be incorporated into another corrective action mechanism with Ecology as the lead. The transfer of legal regulatory authority will be complete when Ecology issues a Model Toxic Control Act (MTCA) Order and modifies the RCRA operating permit to incorporate the substantive requirements under HSWA which will reference the MTCA Order. EPA will simultaneously terminate the 3008(h) Order at that time.

A copy of this letter will also be mailed to Philip and the Port of Seattle to inform them that EPA is giving Ecology the lead on reviewing technical requests involving corrective action issues until the transfer is complete. The following outlines the steps to be taken to complete the transfer and how we will operate in the interim.

Ecology will be the contact for Philip and the Port of Seattle and will coordinate with EPA on issues involving corrective action for the Terminal 91 Facility. Ecology's contact will be Galen Tritt at (206) 649-7280, EPA's contact will be Diane Richardson at (206) 553-1847, Philip's contact will be John Stiller at (206) 227-6127 and Jim Boggs at (313) 824-5823, and the Port contact will be Douglas Hotchkiss at (206) 728-3192.



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Ecology requests EPA to do the following to terminate the 3008(h) Order:

- * Review the second draft of the RFI dated February 1995. This will involve the review of the comments and revisions made by Philip on the first draft which EPA has commented on.
- * Either approve or respond to this draft.
- * Outline unresolved issues and 3008(h) Order tasks. EPA's response will also discuss why these task have not been completed to date and what decisions need to be made to complete them. This will provide a good transition point and will give Ecology a better understanding of those items to be incorporated into future workplans under Ecology's corrective action (see enclosure).
- * Supply information and files to Ecology as needed to aid in the transfer.
- * Terminate the 3008(h) Order once Ecology has issued a MTCA Order and modified the RCRA permit to include HSWA requirements.

Ecology will do the following in the transfer process:

- * Prior to the termination of the 3008(h) Order, Ecology will issue a MTCA Order and modify the permit to incorporate corrective action for the entire Terminal 91 site.
- * The MTCA Order will incorporate those outstanding issues and tasks from the 3008(h) Order as outlined by EPA and the solid waste management units and areas of concern addressed in the November 1994 RCRA Facility Assessment.
- * The MTCA Order will name as Potential Liable Parties (PLPs) Philip Environmental, Inc., the Port of Seattle and Pacific Northern Oil Company (PANOCO). If other PLPs are to be named it will be the responsibility of the above PLPs to provide "credible evidence" to Ecology.
- * Until the 3008(h) Order is terminated, Ecology will assume the technical lead. After the MTCA Order is in place and the 3008(h) Order is terminated, Ecology will assume full site lead for Terminal 91.
- * Ecology will review technical requests from Philip with the understanding that Ecology will recover cost for time invested in those reviews. Ecology review comments will be forward through EPA.

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I hope the above list outlines actions to be taken for both EPA and Ecology to successfully transfer this site. If you have any questions or comments, please call me at 206/649-7280.

Sincerely,



Galen Tritt
Hazardous Waste Specialist
Hazardous Waste and Toxics Reduction Program

GHT:sas;jw
Enclosure (1)

1) Memo from David Croxton, dated Jan. 24, 1996

cc: John Stiller, Philip Environmental, Inc.
James Boggs, Philip Environmental, Inc.
Marlys Palumbo, Philip Environmental, Inc.
Douglas Hotchkiss, Port of Seattle
George Markwood, Pacific Northern Oil Company
Hideo Fujita, Ecology-NWRO
Sally Safioles, Ecology-NWRO
Julie Sellick, Ecology-NWRO
Gerald Lenssen, Ecology-HDQ

DEPARTMENT OF ECOLOGY

January 24, 1996

TO: David Croxton, EPA-Solid Waste Section Supervisor
FROM: Sally Safioles, Ecology-HWTR/NWRO
SUBJECT: BEI-Pier 91 Corrective Action

As the agencies work toward transferring the corrective action authority for this facility from EPA to Ecology and in my attempt to understand this site, I have questions regarding where EPA was going with this site. In reading through reports and correspondence I find issues that seem to be unresolved. Please provide the resolutions for the following issues in writing so Ecology can include any unresolved issues in future workplans:

1. Deep Aquifer: In a memo from Bob Farrell to you dated Feb 23, 1994 for the review of the 1993 Draft RFI, it starts out by saying the shallow aquifer investigation was OK but that the deeper aquifer needed a lot of work. Then in a memo dated July 25, 1994 from Bob to you, Bob recommends no further investigation for the lower aquifer under the BEI facility. This is based on the changes in contaminate concentrations, results of the first tidal analysis, and the direction of ground water flow which does not seem to be significantly effected by the changing tide. The changes in contamination was believed to be either laboratory error or sloppy sampling techniques; contaminants found are also found upgradient or side gradient, therefore assuming some off-site source. Based on this analysis, please clarify outstanding issues as perceived by me as I read through the files so I can understand where these issues where going:

SECOND TIDAL STUDY Does "no further investigation" mean no need for a second tidal study? The correspondence follows:

June 11, 1993, Letter from BEI requests a variance to wave a second tidal monitoring study planned for August 1993.

July 28, 1993, EPA responses to BEI request for a variance from the requirement to complete a second tide study. EPA temporarily postpones requirement until EPA reviews the technical merits.

Oct 15, 1993, Letter from EPA to BEI indicates a need for a second tide study.

Feb 23, 1994, Memo from Bob Farrell to EPA that indicates the lower aquifer needs a lot of work.

Nov. 4, 1994, EPA comments on the first Draft RFI which discusses problems with the evaluation of first tide study and the interpretation of the geology and hydrogeology.

Jul 25, 1994, Memo from Bob Farrell to EPA which indicates no further investigation for the lower aquifer beneath BEI site.

Feb 10, 1995, BEI responds back to EPA's Nov. 4, 1994 comments and submits a second draft of RFI.

Where is this issue now? I don't recall seeing in the files any response back from BEI on the Oct 15, 1993 letter that said they would conduct a second tidal study. The draft HWSA permit does not indicate another tide study. Who is waiting for who on this issue? Is this a dead issue? If a second study is to be done what other issues need to be resolved first?

PUMP TEST Does "no further investigation" mean no need for the pump test? The correspondence follows:

Nov. 19, 1993, approved workplan for pump test.

July 25, 1994, memo seems to indicate that the wells selected (106 and 122 clusters) to do the pump test would not be representative of the majority of the lower aquifer.

Were other wells therefore to be selected for the test? If no pump test is to take place, has this decision been passed on to BEI? The draft HSWA permit only mentions a pump test for a remediation system. Who is waiting on who for this issue?

ADDITIONAL WELL There seems to be an issue about an additional deep aquifer well on the west side of the facility. The correspondence follows:

Feb, 1993, the approved tide study workplan discusses the installation of a deep aquifer monitoring well (CP-107B) to be installed before the second tide study.

Nov. 19, 1993, BEI's cover letter to the pump test workplan indicates they would install deep aquifer well on the west side equidistant between wells 103B and 104B.

July 25, 1994 memo indicates the existing

monitoring network in the lower aquifer as able to detect a plume but then qualifies the statement by putting in parentheses "this should not to taken to indicate there are enough wells in the lower aquifer to actually define the shape and limits of a plume if one plume existed".

1995, the draft HSWA permit specifically requires a well on the west side in the deep aquifer.

Has "no further investigations in the lower aquifer" been pasted on to BEI? Are they still planning to install the well on the west side? Who is waiting on who?

2. EPA commented on the first draft of the RFI on Nov 4, 1994. EPA raised issues regarding the continuity of the silty sand layer, the tidal effects evaluation and the vertical ground water flow. Issues all dealing with implications to the lower aquifer. BEI resubmitted to EPA a second RFI draft and their comments on EPA's comments on Feb 10, 1995. How does the above discussion in number 1 bear on BEI's comments and second draft of the RFI? Are BEI's responses and second draft "adequate" at this point to go ahead and finalize the second draft of the RFI? It seems EPA has had a change in attitude on some of those issues bases on the July 25, 1994 memo.

3. The Nov 1994 RFA report indicates that EPA was reviewing the adequacy of the recovery system for the PANOCO oil line break. Bob wrote a memo to you dated May 19, 1994 with his review. Was anything done with this review? How was this review to be used? Was anything presented to PANOCO? The HSWA permit had this on a separate track for investigation? Why is EPA tracking a non-RCRA issue (petroleum contaminated media)?

4. The RFA and the draft HSWA permit seems to focus more on the documented spills and releases, thorough there was some aerial photo analysis that indicated other likely areas of contamination. Was it anticipated that there would be random sampling in areas evaluated in the aerial photo analysis which are now paved? Or were investigations to be deferred until there was a "new discovery" of contamination in these areas?

5. Please provide attachments AA and BB to the draft HSWA permit.